

October 9, 2012

Anthony Herman
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR # 6667

OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION
COMMISSION

Re: Cheri Bustos, Friends of Cheri Bustos and House Majority PAC

Dear Mr. Herman:

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against the House Majority PAC ("HMPAC") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for violation of the regulations governing dissemination, distribution, or republication of candidate campaign materials, located at 11 CFR § 109.23.

I. Facts

Cheri Bustos is a candidate for U.S. Representative for Illinois' 17th Congressional District, running for election in 2012 ("Bustos"). Cheri Bustos filed a Statement of Candidacy on July 1, 2011. Friends of Cheri Bustos is the authorized principal campaign committee for Cheri Bustos ("the Campaign"), and filed an amended Statement of Organization on April 16, 2012.

House Majority PAC ("HMPAC") is an independent expenditure-only committee that also makes independent expenditures on behalf of Federal candidates.

On August 17, 2012, the Campaign released a youtube video with campaign video footage depicting Bustos visiting with various people in different environments ("Campaign Video Footage"). On October 3, 2012, HMPAC began airing an advertisement in support of Cheri Bustos ("HMPAC Advertisement") on broadcast television. The disclaimer on the HMPAC Advertisement reads "Paid for by the House Majority PAC. TheHouseMajorityPAC.com Not authorized by any candidate or candidate's committee. House Majority PAC is responsible for the content of this advertising." See Attachment 1 for a transcript of the HMPAC Advertisement.

The HMPAC Advertisement includes the exact same footage that was created and produced by the Campaign, and included in the Campaign Video Footage. HMPAC even admits they are using "Bustos b-roll" in the side-by-side script provided to the television station.¹ For instance:

¹ See, House Majority PAC, "IL-17-Back-Side by Side"

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- At :19 seconds, the HMPAC Advertisement shows a restaurant scene, with Bustos in a green sweater sitting at a table speaking with a woman in a black tank top. At 1:53, the Campaign Video Footage shows the exact same footage, panning to the same restaurant shot with Bustos sitting at the table with the same woman.
- At :21 seconds, the HMPAC Advertisement shows Bustos standing over a table at a restaurant, speaking to a seated gentleman in a dark striped collared shirt. At :31, the Campaign Video Footage shows the same footage of Bustos speaking to the same gentleman.
- At :22-24 seconds, the HMPAC Advertisement shows Bustos walking through a factory wearing a blue dress and a yellow blazer with a man in a black polo shirt and khakis. At 2:22-2:24 seconds, the Campaign Video Footage shows the same footage of Bustos walking with the same gentleman.
- At :25 seconds, the HMPAC Advertisement shows Bustos talking to a man seated in a piece of heavy factory machinery. At 2:06 seconds, the Campaign Video Footage shows the same scene of Bustos talking to the gentleman.
- At :26-30 seconds, the HMPAC Advertisement shows Bustos walking beside a corn field with a man in a red baseball cap. At 1:19-1:22 seconds, the Campaign Video Footage shows the same scene of Bustos and the man walking beside the corn field.

Relevant Law

Committees that solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations for the purpose of making independent expenditures are prohibited from making direct contributions to federal political committees. *See* *Citizens United v. Federal Election Commission*, 130 S. Ct. 876, 901 (2010) (noting that *Buckley v. Valeo*, 424 U.S. 1 (1976) first upheld the FECA's limits on direct contributions to candidates to protect against the government interest in the prevention of corruption and the appearance of corruption"). *See also* FEC Advisory Opinion 2010-11 (approving an organization's proposal to solicit non-federal funds in order to make independent expenditures, as long as the organization refrained from making "any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization").

The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or graphic materials prepared by the candidate, the candidate's authorized committee, or an agent of either shall be considered a contribution for purposes of contribution limitations and reporting responsibilities of the person making the expenditure. 11 CFR § 109.23. There are exceptions to this rule, but none are applicable in the situation at hand.² In-kind contributions, like other contributions, are subject to federal contribution limits.

² See 11 CFR §109.23(b), granting exceptions from the definition of contribution for republication by the candidate or candidate's authorized committee who prepared the material, for campaign material incorporated into a communication that advocates the defeat of the candidate that prepared the material, for republication in a news story, editorial, or commentary, for republication of a "brief quote of materials that

Legal Analysis

The cost of creating the HMPAC Advertisement is, by law, classified as an in-kind contribution to the Campaign. HMPAC distributed an advertisement that republished materials prepared by Bustos and the Campaign and included in campaign video footage published online not two months earlier. HMPAC acknowledged that the footage in their own documentation was "Bustos b-roll." Because none of the exceptions to the definition of a contribution apply in the matter at hand, the cost of conceptualizing, producing, and broadcasting this advertisement is considered an in-kind contribution from HMPAC to the Campaign.


HMPAC is prohibited from making direct or in-kind contributions to federal campaign committees. Furthermore, Bustos and the Campaign are prohibited from receiving funds unless the funds are subject to the limitations, prohibitions and reporting requirements. The cost of the HMPAC Advertisement is an illegal contribution to Bustos and the Campaign.

IV. Conclusion

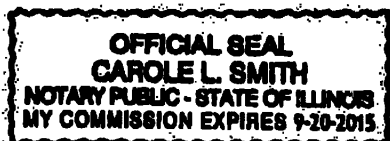
Upon information and belief, and based upon the facts relayed herein, the House Majority PAC have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

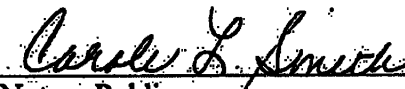
The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,


Michael J. Fontneau
Deputy Campaign Manager
Schilling for Congress

Sworn to and subscribed before me this 9 day of October, 2012.




Notary Public

My Commission Expires:

09-20-2015

demonstrate a candidate's position", or for republication paid for with coordinated party expenditure authority." Clearly none of the exceptions explained herein apply in this case.


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Attachment 1

Transcript of the HMPAC Advertisement

Didn't take long for Bobby Schilling to turn his back on Illinois families; less than two years in Congress, Schilling voted six times to block middle class tax cuts. He said he'd fight for Illinois jobs but Schilling voted for tax breaks that would help companies ship our jobs overseas. And they're going. Cheri Bustos? She's got our back. She'll stop tax breaks for outsourcers, and fight for the middle class. House Majority PAC is responsible for the content of this advertising.



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IL-17-Back-Side by Side		
Visual	Audio	Back-Up
Schilling talking to voters CG: CONGRESSMAN SCHILLING	Didn't take long for Bobby Schilling to turn his back on Illinois families.	
<p>Image of "Schilling" from back, overlaying screened image of struggling middle class family</p>  <p>CG: CONGRESSMAN SCHILLING CG: RAISE MIDDLE CLASS TAXES</p> <p>1. H Res 477, Vote #870 2. H Res 479, Vote #889 3. H Res 487, Vote #902 4. H Res 491, Vote #918 5. H Res 493, Vote #925 6. H Res 502, Vote #944</p>	Less than two years in Congress, Schilling voted six times to block middle class tax cuts.	<p>Voted Against Considering Payroll Tax Cut Extension for Working Americans 6 Times</p> <p>In 2011, Schilling voted against the consideration of a payroll tax cut extension for working Americans 6 times.</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering the Payroll Tax Holiday Extension Act of 2011, which extended middle class tax relief for 2012. [Congressional Record, H7955-1957, 11/30/11]</p> <p>The previous question passed 239-184. [H Res 477, Vote #870, 11/30/11]</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering the</p>

		<p>Payroll Tax Holiday Extension Act of 2011, which extended middle class tax relief for 2012, and the Emergency Unemployment Compensation Extension Act of 2011, which extended unemployment benefits. [Congressional Record, H8151-8152, 12/06/11]</p> <p>The previous question passed 236-184. [H Res 479, Vote #889, 12/06/11]</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering the Payroll Tax Holiday Extension Act of 2011, which extended middle class tax relief for 2012, and the Emergency Unemployment Compensation Extension Act of 2011, which extended unemployment benefits. [Congressional Record, H8269-</p>
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		<p>8270, 12/08/11]</p> <p>The previous question passed 241-173. [H Res 487, Vote #902, 12/08/11]</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering an amendment in the nature of a substitute, which extended middle class tax relief, unemployment benefits, and the Medicare reimbursement doctor fix. [Congressional Record, H8756, 12/13/11]</p> <p>The previous question passed 236-182. [H Res 491, Vote #918, 12/13/11]</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering the Middle Class Fairness and Putting America Back to Work Act of 2011, which extended middle class tax relief.</p>
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		<p>unemployment benefits, and the Medicare reimbursement doctor fix. [Congressional Record, H8919, 12/14/11]</p> <p>The previous question passed 235-173. [H Res 493, Vote #925, 12/14/11]</p> <p>✓ Schilling voted to order the previous question, preventing Democrats from considering a bill passed by the Senate, which extended middle class tax relief, unemployment benefits, and the Medicare reimbursement doctor fix for two months. [Congressional Record, H9956-9958, 12/20/11]</p> <p>The previous question passed 233-187. [H Res 502, Vote #944, 12/20/11]</p> <p><i>See Appendices A-L</i></p>
Pan to left hand raised	He said he'd fight for Illinois jobs.	Schilling Said He Would Fight for Local Employers and Jobs

 <p>CG: CONGRESSMAN SCHILLING</p>		<p>On August 1, 2012, Schilling put out a press release entitled, "Schilling Defends Local Employers, Fights for Jobs." [Schilling for Congress, 8/01/12]</p> <p><i>See Appendix M</i></p>
<p>Shot pans over to reveal fingers crossed behind his back</p>  <p>CG: CONGRESSMAN SCHILLING CG: TAX BREAKS FOR COMPANIES SHIPPING JOBS OVERSEAS</p> <p>Source: Roll Call <u>Vote 151</u>, 3/29/12</p>	<p>But Schilling voted for tax breaks that would help companies ship our jobs overseas.</p>	<p>Schilling Voted For Ryan Budget FY 2013</p> <p>Schilling voted for the FY 2013 Ryan Budget. [H Con Res 112, <u>Vote 151</u>, 3/29/12]</p> <p><i>See Appendix N</i></p> <p>Plan Would Result in American Jobs Shipped Overseas</p> <p>According to a Center for American Progress study using an analysis by Reed College economist Kimberly Clausing, Republicans' 2012 budget - which contained a territorial tax system like the one proposed by Mitt Romney and analyzed here - would result in "800,000 jobs in low-tax countries and potentially displacing U.S. jobs." According to the study, a territorial system "would exacerbate the worst features of our current tax system. It would: enhance the tax code's rewards for moving jobs and investments overseas;</p>

		<p>provide a gratuitous windfall to some of the very companies that have already shifted jobs and profits overseas; further invite the offshore tax haven abuse that deprives the U.S. Treasury of tens of billions of dollars in revenue every year." [Center for American Progress, 7/16/12]</p> <p><i>See Appendix O</i></p>
<p>Image of Schilling's back, overlaying screened shot of deserted factory floor CG: CONGRESSMAN SCHILLING CG: headlines on tear sheets "Sensata Technologies Plans to Close the Freeport Plant..." "...Outsource 170 jobs to China..." The Rock River Times 8/22/12</p>	<p>And they're going.</p>	<p>Sensata Technologies Closed a Plant in Freeport and Outsourced jobs to China</p> <p>The <u>Rock River Times</u> published an article about the Sensata plant closing and said:</p> <p>"Massachusetts-based Sensata Technologies plans to close the Freeport plant, with final layoffs coming in November, and outsource 170 jobs to China. Sensata workers are training their Chinese replacements, who have been flown to Illinois by the company." [<u>Rock River Times</u>, 8/22/12]</p> <p><i>See Appendix P</i></p>
<p><i>Tone/music shift</i> Bustos straight to camera, with people CG: CHERI BUSTOS FOR</p>	<p>Cheri Bustos? She's got <i>our</i> back.</p>	

CONGRESS		
<p>Bustos b-roll CG: CHERI BUSTOS CG: STOP TAX BREAKS FOR COMPANIES THAT OUTSOURCE JOBS</p>	<p>She'll stop tax breaks for outsourcers.</p>	<p>Bustos Pledged to Stop Tax Breaks that Help Companies Outsource Jobs</p> <p>In a televised ad, Bustos said, "Congressman Schilling wants to keep using our tax dollars to reward companies shipping jobs overseas. And I'll stop them."</p> <p><i>See Appendix Q</i></p>
<p>Bustos with Illinois families CG: CHERI BUSTOS CG: FIGHTING FOR THE MIDDLE CLASS</p>	<p>And fight for the middle- class.</p>	<p>Bustos Will Fight for the Middle Class</p> <p>Bustos said in a statement, "My loyalty is to working families and the middle class and I will fight for them in Congress." <u>[Bustos Press Release,</u> <u>8/11/12]</u></p> <p><i>See Appendix R</i></p>
<p>Disclaimer: PAID FOR BY HOUSE MAJORITY PAC. THEHOUSEMAJORITYPAC.COM. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. HOUSE MAJORITY PAC IS RESPONSIBLE FOR THE CONTENT OF THIS ADVERTISING.</p>	<p>House Majority PAC is responsible for the content of this advertising.</p>	